

Incoherent policies and contradictory priorities in Kenya

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Since 2013, Kenya has embraced contradictory policies to manage its refugee affairs, with simultaneous calls for encampment, socio-economic integration and camp closure that affect both refugees and host communities.

Policies should aim to realise a people or a group's aspirations. However, in politically complex institutional environments, the design and adoption of policies may lose sight of common goals. Since the 1990s, Kenya has enforced a strict policy of refugee encampment. Then in 2017, in an apparent turn towards integration, Kenya became a pilot roll-out country of the Comprehensive Refugee Response Framework (CRRF)¹ and pledged to pursue self-reliance and socio-economic integration for refugees. The 2021 Refugees Act embraced both integration and encampment in a confusing combination of seemingly contradictory policy orientations.² Further complicating the situation, the central government has made repeated calls to close the Dadaab and Kakuma refugee camps, which host over 80% of refugees and asylum seekers in Kenya.

In light of these contradictions, how should we understand the Kenyan government's commitments? How do

these policies affect refugee-host relations? This article draws upon interviews and discussions with refugees and host community members in Kakuma, as well as aid providers, to describe the divergent policy space that has emerged.

Incompatible policies: encampment, integration and camp closure

Before Kenya passed its first comprehensive refugee law in 2006, refugees were free to move, work and integrate into Kenyan society. This policy came under scrutiny in the 1990s, following the arrival of large numbers of refugees escaping war and famine in Ethiopia, South Sudan and Somalia. The Dadaab and Kakuma camps were created in northern Kenya during this influx. Kenya has since accommodated a rising number of refugees and asylum seekers through a strict encampment policy that limits movement, with restrictions particularly focused on Somali refugees.



The markets in Kakuma refugee camp bustle with social interaction and economic exchange among refugees as well as Kenyans, but lack infrastructure due to the government's insistence that the camp remain temporary (Credit: Asrat Tolossa)

Despite enforcing encampment, Kenya adopted the CRRF in 2017, pledging to incorporate refugee assistance into its national development plans and to ensure that refugees, returnees, hosts and others living in displacement-affected areas have equal opportunities to achieve self-reliance and well-being. CRRF implementation took centre-stage in the refugee-hosting counties of Garissa and Turkana, which have each established local socio-economic development plans.³ Kenya has also been a leader in associated regional agreements such as the Djibouti Declaration on Refugee Education.

However, Kenya has repeatedly announced its intention to close its camps, with the aim of returning most camp residents to their country of origin. When attempting to close the Dadaab camps in April 2015 and again in 2016, the Kenyan government cited terrorist attacks and national security concerns related to the Somalia-based insurgent group Al-Shabaab. In March 2021, Kenyan authorities issued a 14-

day ultimatum to UNHCR to develop a plan to close both Dadaab and Kakuma camps.

Policy contradictions

The relationship between these three policies – encampment, integration, and camp closure – generates three contradictions. The first and most evident is between encampment and camp closure. The second is between encampment and socio-economic integration. Although Kenya has committed to promoting refugee self-reliance, its encampment policy criminalises movement outside the camps without a pass and its Immigration Law creates barriers to secure legal employment. These restrictions greatly hamper refugees' prospects for economic integration and self-reliance.⁴

The third and most striking policy contradiction is between integration and camp closure. The government has called repeatedly for camp closure despite Kenya being a signatory to a range of international and regional instruments to provide for and

facilitate refugee integration. Interviews in July 2021 revealed the same confusion among refugees, many of whom feel destabilised by the news. As one recent arrival in the Kalobeyei Settlement explained:

I heard in the news that Dadaab and Kakuma will be closed. I was surprised. We were recently relocated here to the Kalobeyei Settlement, and now they want to close all the camps?

The calls for closure have had serious social, psychological and economic repercussions. Many respondents explained that it has taken time for them to develop personal networks which would be broken if the camps were closed. Others asked what would happen to those who have married members of a different nationality: might targeted returns divide their families?

Resolving the contradictions?

The contradictions in Kenya's refugee policies originate from its intention to respond to protracted refugee hosting while embracing evolving international regimes such as the CRRF. Kenya needs to harmonize its legal and regulatory frameworks around refugee hosting in order to achieve a reasonable level of policy coherence.

Most recently, attention has turned to the 'Marshall Plan for Africa', within which the Kenyan government has proposed to transition Dadaab and Kakuma camps into Refugee Villages that will provide infrastructure in education, health, water, energy, security and conservation in designated areas.⁵ The roadmap agreed with UNHCR makes provisions for voluntary safe returns, departures to third countries and options for refugees from the East African Community (EAC) to apply for Kenyan citizenship. Under this plan, those seeking asylum in Kenya would in theory enjoy freedom of movement and the right to employment, education and healthcare as well as the right to start a business.

To bolster the transition from camps to Refugee Villages and empower refugees to pursue self-reliance and contribute to the host economy, refugees should also be provided with land to farm and construct

shelters. However, the Marshall Plan is silent on "the control of designated areas" which is entrenched in the 2021 Refugees Act⁶. The second contradiction – between encampment and socio-economic integration – is thus maintained. The Marshall Plan also excludes Somali refugees from the naturalisation option because Somalia is not a member of the EAC. Third-country resettlement rates are likely to be low, which leaves Somali refugees largely with one option: voluntary repatriation. But following the history of voluntary returns to Somalia since 2014, many who return would likely make their way back to Kenya because of challenges related to insecurity, lack of economic opportunities and access to services such as education.⁷

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4. Asati B, Chakhravati A, David L and Owiso M (2019) 'Mapping the refugee journey towards employment and entrepreneurship: obstacles and opportunities for private for private sector engagement in refugee-hosting in Kenya' bit.ly/refugee-private-sector
5. Wachu S (2022) Marshall Plan: Gov't Seeks Funding from International Partners to Transition Refugees in Kakuma and Dadaab bit.ly/marshall-plan-kenya
6. Articles 30, 31, 32 & 33 of the Refugees Act 2021 provide for designated areas for refugees and maintain restriction of movement into these designated areas.
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